

ANDOVER BOARD OF HEALTH

Minutes

March 9, 2009, 6 P.M.

Public Safety Center

32 North Main Street

The Board of Health meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Margaret N. Kruse, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Dr. Miller, Vice-Chairman, arrived at 6:03 p.m.

I. Approval of Minutes

- **February 9, 2009** – There were no amendments for the minutes.

Motion by Ms. Kruse, seconded by Dr. Miller to approve the Minutes of the Meeting of February 9, 2009. Unanimous Approval.

II. Appointments & Hearings

- **6:00 p.m. – Public Hearing Concerning Smoking in Outdoor Seating Areas** – The Hearing was opened at 6:01 p.m. Present were two reporters from newspapers in the area. Mr. Carbone stated that so far the Health Division has received one written response in favor of the ban and the Health Secretary stated that she received two phone calls in favor of the ban. There was an article in the Andover Townsman as well as a Legal Ad concerning the Hearing. Since there were no residents or food establishments present at the Hearing, the Board took that as an indication that the community was not very concerned if the Board made the decision to ban smoking in outdoor seating areas, so the Board was inclined to promote the ban. The public has been given until March 20, 2009 to send in written responses, so the Board will take appropriate action at the next scheduled Board of Health Meeting on May 11, 2009. Mr. Carbone will draft some regulations for the Board's review in the meantime.

Ms. Martin closed the Hearing at 6:17 p.m., and stated that the Board may get back together for a special meeting, if appropriate, after receiving more written responses.

- **7:00 p.m. – Yee Yang for Thai Sweet Basil – Status Update from September 15, 2008** – Mr. Yang, owner, was present. Mr. Carbone informed the Board that there was improvement over the last quarter, but some problems were still noted. In September of 2008, the Board required that Mr. Yang hire a consultant to conduct and submit monthly inspections to the Health Division and to make sure that staff is trained in food safety. Mr. Carbone questioned if the Board still wanted to receive monthly reports, or if the Board would prefer to receive them every other month and have Mr. Yang back in six months for review. Ms. Martin expressed concern to Mr. Yang because the Board kept seeing repeat issues. Mr. Yang replied that he changed some of his staff and is keeping up with the inspections.

Motion by Ms. Martin, seconded by Dr. Miller, to extend the requirement from inspection every month to every other month, with the requirement that Mr. Yang return in six months for a review. Unanimous approval.

- **7:15 p.m. – George Dukas for Lantern Brunch – Status Update from September 15, 2008** – Mr. Dukas, owner, was present. Mr. Dukas has been conducting monthly self-inspections and Mr. Carbone was pleased with the reports. There is a new staff person who is ServeSafe certified, there are new stainless steel appliances, a massive cleanup has been done, and Mr. Dukas has trained his staff about cross contamination.

Motion by Ms. Martin, seconded by Ms. Kruse, to change the monthly self-inspections at the Lantern Brunch to every other month, to be reviewed by the Board of Health in six months. Unanimous approval.

- **7:30 p.m. – Sharon Breighner for Cupcake Boutique – Request for Variance to Federal Food Code** – Sharon Breighner, owner, was present. Ms. Breighner was requesting a variance to a requirement that she install a hand sink in her new location at Andover Spa at 13 Elm Street. Mr. Carbone explained to the Board that he visited her new location and there is an issue with the hand sink because it is not conveniently located where Ms. Breighner sells her items. Also, the screen that was being used to block the public from entering the back room did not allow easy access to her employees. Ms. Breighner has found prepackaging the cupcakes is unacceptable and would like to use gloves or tissue paper as well as hand sanitizers instead of installing a new hand sink. The Board insisted that brownies and cookies still be individually wrapped, and that Ms. Breighner will have continued access to the hand wash station at Raspberries. Ms. Breighner stated that she would be willing to eventually install a new hand wash station at a later date when she had the cash to do so.

The Board also discussed where Ms. Breighner was cooking her product because there were conflicting accounts of her use of the kitchen at the Lanam Club. Mr. Carbone stated that he will stop by the Lanam Club in the morning to check on the situation.

Motion by Ms. Martin, seconded by Ms. Kruse to approve a variance to the Federal Food Code Regulation 5-204.11 to allow The Cupcake Boutique to sell non-prepackaged cupcakes at 13 Elm Street without the benefit of the installation of a hand wash station behind the counter, subject to the following conditions:

1. *The variance will be for a six month period (Variance expires on September 9, 2009, unless Ms. Breighner seeks an extension prior to that date).*
2. *Tongs and other barriers shall be used when handling non-prepackaged product.*

3. *The path between the counter and the hand wash station in the Raspberries area shall be improved to allow ease of access.*
4. *Ms. Breighner must have on site and use hand cleaning towelettes or “wet naps”.*

Unanimous approval.

III. Discussion

- **FY2010 Budget** - Mr. Carbone explained that there was a meeting with the Board of Selectmen and Finance Committee to discuss the budget issues. There was some discussion concerning contracting out food inspections. At this time, we do use Michelle Grant from the Town of North Andover to help with food inspections. Another comment was concerning cross training of Inspectors. Right now we do use the two Conservation Agents as well as the DPW Engineer as Health Agents. Mr. Carbone informed the Board that there was no indication yet of any terminations. The Community Development and Planning Department (CD&P) has been informed that it needs to cut \$80,000.00 from the personnel services line. There are less renovations and Building Permits are down. CD&P Agents are utilizing this downtime to catch up on some of the mandated inspections and paperwork.
- **Set May and June Meeting Dates** – The Board decided on May 11, 2009 and June 8, 2009 for its next Board of Health Meetings.
- **Watershed Protection Overlay District** – Mr. Carbone informed the Board that he met with John Zipeto and the Planning Board concerning the Bylaw amendment, and they had a couple of comments. The requirement to do an inspection every five years on septic systems on property located within 400’ of Haggetts Pond was determined to be cost prohibitive to the homeowners. Instead, the final report of the Advisory Committee will recommend that the Town conduct a baseline inspection of all systems in that zone and send yearly reminders to homeowners concerning septic system maintenance, as well as other educational material.

Motion by Ms Kruse, seconded by Dr. Miller to endorse the revised Watershed Protection Overlay District By-law Article as edited on 3/3/09, with recommended changes and grammatical corrections. Unanimous approval.

IV. Old Business

- N/A

V. Definitive Subdivision Plans

- **180 Abbot Street – Revised Subdivision** – Mr. Carbone explained that this was originally a 5 lot subdivision, but was changed to a 4 lot subdivision. Mr. Carbone recommended approval subject to conditions stated below.

Motion by Ms. Martin, seconded by Dr. Miller to approve the Definitive Subdivision of 180 Abbot Street, with the following conditions:

- 1. Any modification, amendment, or change to the above-cited Definitive Plan shall be submitted as a new or modified Definitive Plan in accordance with the provisions of MGL Chapter 41, Section 81U.*
- 2. Subject to Conservation Commission approval of the above dated plan by Order of Conditions or Negative Determination.*
- 3. The drainage system shall meet the approval of the Andover Department of Public Works.*

Unanimous approval.

VI. Plan Review

A. D.W.R.P. Variances/Local Upgrade Approvals

- N/A

VII. Staff Reports

A. Director's Report:

- **MRC Capacity Building Grant** – Mr. Carbone informed the Board that the MRC received a \$10,000 Grant which will help to pay for staff and recruiting for a period of one year. Ms. Joanne Martel, Assistant Health Director and Town Nurse, Coordinator of the MRC, held a training session at the Andover Public Library and twenty to thirty people signed up. There are about one hundred members regionally. Mr. Carbone had not prepared a Press Release yet, but was planning to submit one to the Andover Townsman.
- **Mosquito Control District Plan** – Mr. Carbone explained to the Board that Andover has a lot of mosquitoes because there is a lot of swampland here. The district checks traps for mosquitoes to try to scientifically determine what types of viruses to expect due to the different types of mosquitoes. Fewer cases of EEE are expected due to historic cycles. The Massachusetts Department of Public Health will no longer test dead birds and will concentrate on testing mosquitoes exclusively. The Town will not spray unless it is absolutely necessary.

- **Important Dates:**

- **April 6 through 10 – Public Health Week** –Mr. Carbone informed the Board that the Public Health Week activities will be pushed out one week due to a Greater Lawrence Public Health Coalition Meeting that is scheduled as well as religious holidays that week. The region is considering Childhood Asthma, Lyme Disease, and cancer as topics.
- **April 13 @ 6 p.m. – Board of Health Meeting**

- **CD&P Cleanup** – Mr. Carbone informed the Board that the CD&P Department closed on Friday so that files could be cleaned out. Mr. Carbone was very pleased because they were able to open up some space in the Archives.

B. **Nurses' Report for February, 2009** – The Nurses' Reports were for informational purposes only.

C. **Inspectors' Reports for February, 2009** – The Inspectors' Reports were for informational purposes only.

VIII. Board Member Reports

- N/A

IX. Enter into Executive Session to Discuss Litigation.

- **27 Kirkland Drive** - The Board did not discuss this matter in Executive Session because the check for the outstanding Criminal Citation was received and the dumpster had been removed.

The Board stopped the meeting for a Recess at 7:12 p.m., and resumed the meeting at 7:17 p.m.

- **2 Carriage Hill Road**

Motion by Ms. Martin, seconded by Ms. Kruse, to adjourn to Executive Session at 8:10 p.m. to discuss the litigation of 2 Carriage Hill Road with the intention to adjourn from the Regular Board of Health Meeting afterwards. Ms. Martin polled the Members; Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kruse, Aye. Unanimous approval.

The Board returned from Executive Session and reconvened to adjourn the regular Board of Health Meeting at 8:43 p.m.

During Executive Session, the Board made the decision to dismiss the criminal case against Mrs. Wolfe.

X. Adjournment

Motion by Ms. Kruse, seconded by Ms. Martin to adjourn at 8:45 p.m. Unanimous approval.